

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JACK GUTTMAN, INC.,)	
)	
Plaintiff,)	Case No.: C-1-01-800
)	Judge: Susan J. Dlott
v.)	
)	
KOPYKAKE ENTERPRISES, INC.,)	
)	
Defendant.)	

FIRST AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff Jack Guttman, Inc., d/b/a Bakery Crafts, by its attorneys and for its
Complaint, alleges as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the patent laws of
the United States, Title 35, United States Code.

THE PARTIES

2. Plaintiff Jack Guttman, Inc., d/b/a Bakery Crafts ("Bakery Crafts"), is an
Ohio corporation having a place of business at 9300 Allen Road, West Chester, Ohio 45069.

3. Upon information and belief, defendant Kopykake Enterprises, Inc., a
California corporation, has a place of business at 3699 W. 240th Street, Torrance, California,
90505. Kopykake does substantial business in the state of Ohio, including this judicial district,
and including the offer for sale, sale and/or importation of the product(s) accused to infringe the
patent in suit.

JURISDICTION

4. Federal question jurisdiction is conferred pursuant to 28 U.S.C. §§ 1331 and 1338(a).

Count I - Claim For Patent Infringement of U.S. Patent Number 6,319,530

5. On November 20, 2001, United States Letters Patent Number 6,319,530, entitled "Method of Photocopying an Image onto an Edible Web for Decorating Iced Baked Goods" (hereinafter "the '530 patent"), was duly and legally issued to Bakery Crafts, and Bakery Crafts is the owner of the '530 patent. A copy of the '530 patent is attached to this First Amended Complaint as Exhibit A.

6. Upon information and belief, Kopykake is infringing, continues to infringe, is actively inducing infringement of, and continues to actively induce infringement of (hereinafter collectively "infringement"), one or more claims of the '530 patent by the manufacture, use, offer for sale, sale, supply, supply of consumable for use with, and/or advertisement of certain cake decorating systems, including the cake decorating system marketed under the name Kwik-Kopy Cake Decorating System.

7. As a result of the actions of Kopykake, Bakery Crafts is suffering and continues to suffer substantial injury, including irreparable injury, and will result in damages to Bakery Crafts, including loss of sales and profits, which Bakery Crafts would have made but for the infringement by Kopykake, unless Kopykake is enjoined by this Court.

Count II - Claim For Patent Infringement of U.S. Patent Number 6,582,742 B2

8. On June 24, 2003, United States Letters Patent Number 6,582,742 B2, entitled **A**Method of Photocopying an Image onto an Edible Web for Decorating Iced Baked Goods" (hereinafter **A**he **S**42 patent~~Q~~ was duly and legally issued to Bakery Crafts, and Bakery Crafts is the owner of the **S**42 patent. A copy of the **S**42 patent is attached to this First Amended Complaint as Exhibit B.

9. Upon information and belief, Kopykake is infringing, continues to infringe, is actively inducing infringement of, and continues to actively induce infringement of (hereinafter collectively **A**infringement~~Q~~ one or more claims of the **S**42 patent by the manufacture, use, offer for sale, sale, supply, supply of consumable for use with, and/or advertisement of certain cake decorating systems, including the cake decorating system marketed under the name Kwik-Kopy Cake Decorating System.

10. As a result of the actions of Kopykake, Bakery Crafts is suffering and continues to suffer substantial injury, including irreparable injury, and will result in damages to Bakery Crafts, including loss of sales and profits, which Bakery Crafts would have made but for the infringement by Kopykake, unless Kopykake is enjoined by this Court.

WHEREFORE, Jack Guttman, Inc., d/b/a Bakery Crafts, demands judgment against Kopykake Enterprises, Inc. as follows:

A. That a judgment be entered that Kopykake Enterprises, Inc. has infringed and has induced infringement of United States Letters Patent No. 6,319,530.

B. That a judgment be entered that Kopykake Enterprises, Inc. has infringed and has induced infringement of United States Letters Patent No. 6,582,742 B2.

C. That Kopykake Enterprises, Inc., its agents, sales representatives, distributors, servants and employees, attorneys, affiliates, subsidiaries, successors and assigns, and any and all persons or entities acting at, through, under or in active concert or in participation with any or all of them, be enjoined and restrained preliminarily during the pendency of this action, and thereafter permanently, from infringing, and/or actively inducing others to infringe United States Letters Patent Nos. 6,319,530 and/or 6,582,742 B2.

D. That a judgment be entered that Kopykake Enterprises, Inc. is liable for all damages sustained by Bakery Crafts due to such patent infringement and inducement of infringement, that Kopykake Enterprises, Inc. be required to pay over to Bakery Crafts all damages sustained by Bakery Crafts due to such patent infringement, and that such damages be trebled pursuant to 35 U.S.C. § 284 for the willful acts of infringement complained of herein.

D. That this case be adjudged and decreed exceptional under 35 U.S.C. § 285 entitling Bakery Crafts to an award of its reasonable attorney fees and that such reasonable attorney fees be awarded.

E. That Bakery Crafts be awarded its costs and prejudgment interest on all damages.

F. That Kopykake Enterprises, Inc. be required to file with the Court within thirty (30) days after entry of final judgment of this cause a written statement under oath setting forth the manner in which defendant has complied with the final judgment.

G. That Bakery Crafts be awarded such other and further relief as the Court deems just and equitable.

JURY DEMAND

Jack Guttman, Inc. d/b/a Bakery Crafts hereby demands and requests trial by jury of all issues raised that are triable by jury.

Respectfully submitted,

JACK GUTTMAN, INC.

Dated: October 2, 2003

/s/Theodore R. Remaklus

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CERTIFICATE OF SERVICE

I hereby certify that on October 2, 2003 , I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Todd H. Bailey; and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants:

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